



बिहार गजट

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

13 भाद्र 1935 (श0)
(सं0 पटना 689) पटना, बुधवार, 4 सितम्बर 2013

निर्वाचन विभाग

अधिसूचना

21 अगस्त 2013

सं0 एम1-0015/2013 (निर्वाचन अर्जी) 48—निर्वाचन अर्जी से संबंधित भारत निर्वाचन आयोग की अधिसूचना संख्या-82/बिहार-वि0स0/(2/2011)/2013 सर्वसाधारण की जानकारी के लिए पुनः प्रकाशित की जाती है।

बिहार-राज्यपाल के आदेश से,

आर० के० प्रसाद,

अपर सचिव।

भारत निर्वाचन आयोग

अधिसूचना

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001, तारीख 26 जुलाई 2013 / 4 श्रावण, 1935 (शक)

सं० 82/बिहार-वि.स./ (2/2011)/2013 : लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा-106 के अनुसरण में, निर्वाचन आयोग एतद्वारा निर्वाचन अर्जी सं० 2/2011 में दिये गये उच्च न्यायालय, पटना के तारीख 4 जुलाई, 2013 के आदेश को प्रकाशित करता है।

आदेश से,
आर० के० श्रीवास्तव,
प्रधान सचिव,
भारत निर्वाचन आयोग।

ELECTION COMMISSION OF INDIA

NOTIFICATION

*Nirvachan Sadan, Ashoka Road, New Delhi-110001, dated 26th July, 2013/
4 Shravana, 1935 (Saka)*

No. 82/BR-LA/(2/2011)/2013: In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby published Order dated the 4th July, 2013 of the High Court of Judicature at Patna in Election Petition No. 2 of 2011.

By order,
R.K.SRIVASTAVA,
Principal Secretary,
Election Commission of India.

IN THE HIGH COURT OF JUDICATURE AT PATNA
Election Petition No.2 of 2011

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Pradeep Singh, son of Sri Satya Narain Singh, resident of village and P.O.
Siswania, P.S. Lauria, District West Champaran at Bettiah.

..... Election Petitioner.

Versus

Sri Vinay Bihari, son of Sri Parma Singh,, resident of village
Machhargawan, P.O. & P.S. .logapatti, District West Champaran at Bettiah.

..... Respondent.

Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar-Manglam, Adv.

For the Respondent/s : Mr. Md. Nadim Seraj, Adv.

Mr. Shailesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

26 04-07-2013 In this case, when election petitioner's witnesses
were fully examined, to this Court, it appeared that there was
hardly any triable issue.

Mr. S.B.K. Mangalam, learned counsel for the
election petitioner submitted that he had filed this election petition
against the sole-respondent only on a singular ground of corrupt
practice. He submitted that upon evidence it is alleged that the
contesting sole-respondent contested the election as an
independent candidate and won had been consistently making the
statement during the stage of pre-poll canvassing that a vote to
him would be a vote for 'Nitish' and if he is elected, he would go
to strengthen the hands of 'Nitish'. This statement, he submits
amounts to corrupt practice within the meaning of Section-123(2)
of the Representation of the People Act, 1951.

Learned counsel for the respondent submitted that even if this allegation is accepted in entirety, it does not amount to corrupt practice. Both counsels agree that this is the solitary ground for seeking cancellation of respondent's election. It may be noted that the election petitioner was the official JD (U) candidate and had lost by more than ten thousand votes in the 5-Lauria Assembly Constituency in the year 2010. For proper appreciation Section-123(4) of the Representation of People Act, 1951 is quoted hereunder:-

"(4) The publication by a candidate or his agent or by any other person, [with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election."

If one refers to the aforesaid provision, what it contemplates is that the statement made must be a false statement. A statement is false statement which maker thereof knows it to be incorrect and deliberately makes it. Here, in effect what the

respondent was saying is that if he elected he would support the ruling party being an independent candidate. This is neither a false statement nor a false assurance because it is with regard to a future conduct.

In that view of the matter, I am of the view that the statement, as made above, even if accepted in entirety cannot be said to be a false statement. In view of this finding alone, nothing is left to be tried. There being no other ground for challenging the election of the respondent and the challenge on ground of corrupt practices being unsustainable, the election petition is fit to be dismissed and is dismissed as such.

(Navaniti Prasad Singh, j.)

अधीक्षक, सचिवालय मुद्रणालय,
बिहार, पटना द्वारा प्रकाशित एवं मुद्रित।
बिहार गजट (असाधारण) 689-571+400-डी0टी0पी0।
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